Commercial Backcountry Recreation on Crown Land in British Columbia

A public discussion paper

Province of British Columbia, December 1990

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We invite your comments

The Ministry of Crown Lands invites you to comment on the policy proposals contained in this discussion paper.
Comments should be submitted in writing by April 30, 1991 to:

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Minister's Message

British Columbia is graced with exceptional outdoor recreational resources that include a diversity of landscapes, climate, wildlife and natural features. The people of this province take great pride in these unparallelled resources and the outdoor recreation opportunities available to them year-round in all areas of British Columbia.

These same recreational resources form the foundation of an adventure travel or backcountry recreation industry that offers significant opportunities to contribute to the economic growth of the province. This emerging industry, providing packaged recreational experiences on a fee-for-service basis, generates significant revenue with strong growth potential. Today, in addition to guided hunting and angling, backcountry activities offered on a commercial basis include nature observation, hiking, river rafting, cross-country and heli-skiing, to name but a few.

The benefits of this industry are not only economic. Commercial backcountry recreation operations also enhance opportunities for individuals to experience the outstanding recreational amenities of the province.

The provincial government has a significant role to play in managing commercial use of the backcountry. To meet this responsibility there is a need for new Crown land policies aimed at addressing the special management requirements of the commercial backcountry recreation industry.

This discussion paper, which has been prepared cooperatively with other appropriate provincial Ministries, examines a wide range of issues surrounding commercial backcountry recreation use of Crown land. It also proposes policies to guide the management of this industry.

As the Minister of Crown Lands, I have responsibility for allocating land use rights to Crown land for commercial backcountry recreation use. Before implementing any new policies, I would like to hear from you. I encourage you to review this discussion paper carefully and to forward any thoughts or comments to my Ministry. Your input will ensure that policies are developed in a way that balances the needs of residents, other resource users and the commercial recreation industry.

I look forward to hearing from you.

Honourable Dave Parker
Minister of Crown Lands

Executive Summary

Government, the public and industry have recognized the opportunities and issues arising from commercial backcountry recreation use of public land. The main issue is how to ensure orderly development of this economic sector in *balance* with the needs of other resource users and residents, and the capacity of the land and resources to bear such use.

Sustainable development is a key government objective. With respect to the backcountry recreation industry this means establishing policy which will ensure that resources are used within their ecological limits, as well as preventing overcrowding and incompatible uses.

Although it would appear that there is ample Crown land available for commercial backcountry recreation, the majority of the land is already designated or committed to a wide range of uses. These existing uses and interests relating to Crown land must be recognized.

The needs of the backcountry recreation industry are often difficult to integrate into this existing set of land and resource rights, as "adventure tourism" activities generally require large land areas and depend heavily on relatively pristine, wilderness environments.

Another major challenge is the public's high expectations for access to Crown land. B.C. residents have a long tradition of free access to Crown land for recreational use. Many organized groups use the backcountry on a regular and frequent basis. Consequently, it is essential to balance the needs of public recreationists with those of commercial operators.

In addition to these challenges there is a need to ensure that the development of this industry is responsive to aboriginal land issues. Finally, it is an important objective of government that this industry contribute to local economies to the maximum extent possible.

In response to these challenges the Ministry of Crown Lands is proposing a comprehensive set of new policies. The focus of these policies is on the land component of commercial backcountry recreation. They deal with a range of issues - from protecting public access and aboriginal interests, to the issues involved in allocating and managing Crown land tenures for commercial backcountry use. A summary of these policy proposals is provided below.

Summary of Policy Proposals

1. Planning, Inventory, & Carrying Capacity

a) Inventories, assessments and plans for recreation use of Crown land will guide government decisions on whether or not to approve proposals for commercial backcountry use. Commercial backcountry proposals not consistent with land or resource use plans will not be approved.

b) Where land or resource use assessments or plans are not available to guide decision-making, each proposal will be evaluated on its own merits regarding social and environmental impacts.

c) All commercial backcountry recreation proposals will be subject to an inter-agency review process and public consultation. All proposals will be advertised publicly so that all interests may have the opportunity to comment on the commercial proposal.

d) Commercial backcountry recreation proposals will not be approved where the potential environmental or social impacts are considered to be high or where there is insufficient information to evaluate potential impacts.

2. Public Access to Crown Land

a) Maintenance of traditional and potential future public use of the backcountry will be prime considerations when evaluating proposals for commercial businesses.

b) Public use will generally be allowed in all areas used by the commercial backcountry operation, except on site specific approved facilities that the commercial operator has constructed and maintains.

3. Aboriginal Land Issues

a) When making decisions on commercial backcountry recreation use, the Ministry of Crown Lands will be responsive to evolving provincial policy on aboriginal land issues. In the interim, proponents of commercial backcountry recreation will be required to consult with Native people prior to allocation of Crown land for commercial use.

4. Allocating Commercial Land Rights

a) Rights to Crown land for commercial backcountry recreation use will be allocated by competitive process.

b) Requests from existing operators for additional commercial backcountry Crown land rights will only be granted following a competitive process. Crown land rights will not be granted automatically to existing operators who wish to diversify their operations.

c) In most instances, Crown land rights to each commercial backcountry recreation activity will require a separate application. Application for multiple rights for a major four season development may be considered where it is in the public interest.

d) Where major commercial backcountry recreation proposals involving multiple rights are considered, rigorous proposal evaluation will occur, including a multi-agency review panel, extensive public review and performance bonding.

e) Commercial backcountry recreation opportunities will be offered on a local, national and international basis, as appropriate.

f) Competing proposals in the competitive tendering process for commercial backcountry recreation rights will be evaluated against social, environmental and economic criteria. A panel of experts may be established to evaluate proposals.

5. Pricing Land Rights

a) Proponents will be required to tender the financial amount they are willing to pay in the form of a lump sum bonus bid and annual rental in order to acquire the Crown land rights to conduct their business.

b) Approval of the Ministry of Crown Lands is required prior to the transfer of commercial backcountry recreation land use rights. The Ministry of Crown Lands may require that the Crown share in financial benefits that result from a transfer of commercial backcountry recreation land use rights where a transfer would result in a significant financial transaction.

6. Nature of Rights

a) Proponents may be required to obtain several "types of rights" from the government in order to conduct their business. Depending on the proposal, operators may require:
   - resource rights (eg. rights to harvest fish or wildlife);
   - Crown land rights (i.e. rights to enter onto and occupy Crown land); and
   - business licence (i.e. a licence to conduct a particular type of business activity).

b) Government will tailor land use rights to the specific needs of each operation.

c) Crown land may be sold or leased for commercial backcountry use only where the site is small, and where there is significant investment in physical improvements on the site. Sale of Crown land would be the exception, rather than the norm.

d) Rights to Crown land may be authorized by a licence where there is a need for tenure security due to physical improvements on the land for a strategic site or trail system. (eg. remote cabin site or a cross country ski trail system).

e) Rights for use of Crown land for extensive commercial backcountry purposes may be authorized by licence or permit and would not normally convey exclusive rights to conduct the business.

f) To accomodate unforeseen land use conflicts or public need, the Crown will retain the right to modify commercial backcountry licences or permits without compensation.

7. Resource Management & Conflict Resolution

a) Commercial backcountry recreation proposals will not be approved where the potential environmental and social impacts are considered to be too high or where there is insufficient information on impacts to evaluate proposals.

b) Where data regarding potential social and environmental impacts is insufficient for resource managers to assess the merits of a proposed development, the proponent may be required to undertake an impact assessment at the proponent's expense to fully assess potential impacts and recommend ways that they might be overcome.

c) Commercial backcountry recreation uses of Crown land will be conditional on acceptance and approval of a management plan.

d) For major developments the proponent will be responsible for preparing the management plan in conjunction with the public and government agencies.

e) Management plans will provide the basis for monitoring and reviewing operator performance in using Crown land efficiently and properly. Monitoring the carrying capacity of the land will be an important component of the review process.

8. Public Safety

a) The commercial backcountry recreation industry will be encouraged through its individual industry associations to develop standards to ensure client safety and well-being.

Response to Applications for Commercial Backcountry Recreation While Policy is Developed.

Numerous proposals to establish commercial backcountry recreation businesses on Crown land are currently before the Ministry of Crown Lands. Should the Ministry decide to entertain applications, development proposals will be considered in the following manner:

1. Applications will be considered that adhere to the essential elements of the policies proposed in this discussion paper, including:

   - ☐ inter-agency and public review of proposals;
   - ☐ consideration of public access needs;
   - ☐ competitive process to determine successful applicant;
   - ☐ public advertising of applications;
   - ☐ separate application for each activity except for special circumstances;
   - ☐ acceptance of an approved management plan.

2. Applicants will be advised that operations established prior to the finalization of the commercial backcountry policy will be subject to review and possible adjustment to reflect the new policy. Such adjustments may include:

   - ☐ modification to management plans;
   - ☐ amendments or cancellation of Crown land tenure rights.

3. Submission of a proposal or application to conduct a commercial backcountry recreation business on Crown Land does not establish a priority interest in the land. The Ministry of Crown Lands is not obliged to consider an application for Crown land, or to dispose of Crown land pursuant to an application.

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Background to Commercial Backcountry Recreation In British Columbia

1. Introduction

Commercial backcountry recreation, or adventure travel as it is sometimes called, refers to recreational activities that are carried out in relatively undisturbed natural environments on a fee-for-service basis. They generally consist of packaged backcountry experiences that are planned and structured to maximize the satisfaction of participants. Normally, individuals are guided and outfitted for participation in recreation activities that focus on natural amenities.

Traditionally, commercial backcountry recreation in the province has focussed on guide-outfitting and angling guiding. More recently, however, a wide range of newer commercial activities have emerged throughout the province. These include: nature observation; hiking; heli-hiking; river rafting; trail riding; mountaineering; snowmobiling; cross-country skiing; ski-touring; heli-skiing and ski mountaineering. The expansion and diversification of commercial backcountry recreation in British Columbia has reached a point where it now represents a significant component of the overall tourism industry. In 1986 total revenues for the industry, excluding sport hunting and fishing, were estimated to be $55.7 million. Accounting for sport fishing and hunting, the total exceeds $133 million. (Outdoor Recreation Council, 1988). The industry shows significant potential for expansion. Growth rates are estimated at 15 to 20 percent per year. The Wilderness Tourism Council forecasts that by the year 2000 commercial backcountry recreation in British Columbia will generate over a half-billion dollars in direct revenues.

There are a number of reasons for this growth. Experiences offered by commercial backcountry recreation appeal to an increasingly affluent and activity conscious "Baby Boom" generation. In addition, British Columbia is endowed with a "Super Natural" resource characterized by diverse landscapes, climate and natural features. When taken together, this resource is unparallelled in a national and international context, and positions the province to capitalize on continued growth of this rapidly emerging industry.

2. Where are We Today with Commercial Backcountry Recreation Use?

Recent studies by the Outdoor Recreation Council and the Wilderness Tourism Council identify a number of characteristics of the adventure travel or commercial backcountry recreation industry. These trends are:

- ☐ Adventure travel is the fastest growing segment of the U.S. travel industry accounting for 5-10% of the $275 billion Americans spent on tourism in 1985.
- ☐ Over 35 million North Americans are in the market for adventure trips. In Canada, 35% of the population want vacations involving adventure, outdoor activity and excitement.
- ☐ Participants in all activities are looking for a quality experience in an uncrowded, undisturbed wilderness and/or scenic setting.
- ☐ While the adventure travel sector currently draws a major portion of its business from British Columbians, it has significant appeal to American and overseas markets. American visitors are an important source of business for nature observation, sailing, heli-skiing and heli-hiking.
- ☐ Relatively less expensive, less packaged pursuits such as backpacking, kayaking and cross-country skiing rely more heavily on British Columbia residents.
- ☐ While the commercial backcountry recreation industry in British Columbia generated $135 million in 1986, this estimate includes only earnings by packaged tour operators. If the industry were to include the expenditures of all adventure recreationists, the revenues would likely be much higher.
- ☐ Adventure travellers are willing to pay substantial amounts for a high quality experience.
- ☐ Adventure travel packages at $75 to $400 per day are significantly higher than the average daily expenditure for all overnight visitors to British Columbia. Some of the more exotic forms of adventure activities command very high rates. Helicopter skiing, for example, may be priced at $3500 per week for a packaged experience.

Based on these facts, it is clear that use of public land and resources for commercial backcountry recreation can make a significant contribution to the economic well-being of the province.

3. The Role of Government

The provincial government has a significant role to play in managing and encouraging orderly commercial use of the backcountry. This role has been relatively limited to date and is a reflection of the recent and rapid growth of the industry in British Columbia.

Existing government programs have evolved in response to the needs of specific commercial activities. Programs include: licensing of the guide-outfitting industry for sport hunting and guided freshwater angling administered by the Ministry of Environment; and policies to licence commercial helicopter skiing and alpine skiing on Crown land administered by the Ministry of Crown Lands. At this time, however, there are no comprehensive, coordinated government policies and programs specifically tailored to the needs of the industry as a whole.

Within government, managing commercial backcountry recreation is shared among a variety of agencies responsible for specific components of the industry. Generally, these components can be defined as *land* itself; the *resources on the land;* and the *business dimensions* of the industry.

The agency with primary responsibility for managing the *land component* of the industry is the Ministry of Crown Lands. Excluding resources on the land, the Ministry of Crown Lands is responsible for allocating land tenure rights necessary for a commercial backcountry operation. In return for these rights, the Ministry collects rents. Rights for commercial use are normally granted by sale, lease or licence, as appropriate. Depending on the commercial operation, one or more forms of tenure may be required. Within provincial parks, management of the land component is the responsibility of the Ministry of Parks.

Allocation of rights to and management of the *resource component* are shared among a number of agencies. Notably these are the Ministry of Environment, the Ministry of Forests, and the Ministry of Parks. The Ministry of Environment allocates rights and collects fees for commercial use of fish and wildlife resources. Guide-outfitting rights to specific game species are a single example. In addition, the Ministry of Environment has the important responsibility for the conservation and protection of all environmental resources in British Columbia. The Ministry of Forests is responsible for allocating rights to timber resources that may be modified by a commercial operation. As an example, for an operator to construct a trail system associated with his backcountry operation, that involves removal of trees,

appropriate cutting permits would first need to be acquired from the Ministry of Forests. In addition to these responsibilities, the Ministry of Forests is also responsible for planning, designating and managing wilderness areas in the province. Ministry of Forests wilderness management plans would identify the manner in which designated wilderness areas may be used for commercial backcountry operations. Within a provincial park, responsibility for allocating commercial use of resources is the responsibility of the Ministry of Parks in conjunction with other appropriate resource licencing agencies.

Primary responsibility for managing the *business component* of the industry rests with the Ministry of Tourism. At the industry level, Ministry initiatives focus on research into marketing and development opportunities of commercial backcountry sectors, the preparation of regional tourism development strategies, and compilation of data bases on significant tourism resources in the province. At the operator level, the Ministry provides advice on the development of business plans, assists in linking local, national and international investors with commercial backcountry opportunities in the province, and provides advice on appropriate government funding sources. In addition, under current legislation the Ministry of Tourism has authority to licence accommodation associated with a commercial backcountry recreation operation.

While the legislation and mandates generally exist to manage the land, resource and business components of the industry, to date, policy and programs have been limited and largely uncoordinated. There is now a need for government to develop appropriate commercial backcountry recreation policies that will provide this economic sector with sufficient security to undertake business planning and investment, and also establish the basis to manage the difficult issues surrounding industry growth and expansion.

4. The Challenge for British Columbia

Managernent of commercial backcountry recreation is a significant challenge for British Columbia. If we are to derive long-term benefits for British Columbians, we must collectively make decisions on how to ensure orderly development of this economic sector in *balance* with the needs of other resource users and residents, and the capacity of the land base and the natural resources to bear such use.

Providing suitable land and resources for commercial backcountry recreation represents a key dimension of this challenge. On the surface, in a province where 93 percent of the land base is Crown land, it would appear that there is ample land available for commercial backcountry recreation. However, the majority of the land is designated, or the resources on the land are already legally committed, for a wide range of uses. These include forestry, range, and mineral or petroleum uses. There are additional commitments to protect watershed resources, wildlife management areas, hydro development areas, parks and ecological reserves.

The existence of such commitments does not preclude other compatible uses on the same land base. Provincial policy, in fact, encourages integrated use of Crown land and resources whenever a variety of uses can compatibly co-exist. Commercial backcountry recreation, because it normally requires large land areas, however, is often difficult to "fit in" with existing resource uses. It also depends heavily on relatively pristine, wilderness-like experiences. Consequently, such things as noise and the visual impact of resource development and other overlapping recreational uses can seriously impair the quality of the recreational experience.

Fitting commercial backcountry recreation use into the provincial land base is further complicated by the lack of a solid inventory of suitable land and resources, a lack of knowledge of the resource carrying capacity, and the absence of clear processes for determining priority land uses in a given area.

Another major challenge to managing this emerging industry, is the public's high expectations for recreational access to Crown land. B.C. residents have a long tradition of free access to Crown land for outdoor recreational use. This use is largely unstructured and unorganized. In fact, many residents choose to live here because of the outstanding outdoor recreational resources and the ease with which they can be accessed.

In addition, many specific areas of the B.C. backcountry are used for outdoor recreation by public groups and organized clubs on a regular and frequent basis. Examples include areas frequented by snowmobile clubs, trail systems developed by local cross-country ski clubs, rock faces used by mountaineering clubs or sites used by trail-bike clubs.

Given these expectations for continued public access, there is a need to balance the requirements of public recreationists with those of commercial operators. Considerations include: the appropriate mix of commercial and non-commercial use; the provision of appropriate tenure security to enable a commercial use to function while still maintaining public access; and ways to manage commercial impacts such as helicopter noise and over-crowding on public recreational experiences.

In addition to these challenges, the 1990's have signalled major changes in societal attitudes toward the question of aboriginal land rights. There is a need to ensure that the development of the commercial backcountry recreation industry occurs in a manner that is responsive to the evolution of provincial policy on aboriginal land issues.

Finally, there is the issue of the extent to which the industry contributes to local economic growth. While the commercial backcountry recreation industry can provide significant opportunities for economic growth, the challenge is to find ways to ensure that the greatest economic benefits flow to regional and local economies, particularly in rural areas where they are most needed.

There are other issues that need to be addressed in developing a commercial backcountry recreation policy. These issues are also the subject of this discussion paper. The central challenges, however, are: finding effective ways to integrate and fit commercial backcountry operations with resource capability, existing resource commitments and with public expectations for outdoor recreational use of public lands; the need to ensure industry development is responsive to the evolution of provincial policy on aboriginal land issues; and ensuring that the economic benefits of commercial backcountry recreation contribute to local economies to the maximum extent possible.

Goal and Objectives for Commercial Backcountry Recreation on Crown Land in British Columbia

The following goal and objectives of policy for commercial backcountry recreation are proposed.

1. Goal

To support the development of a commercial backcountry recreation industry on suitable Crown land in British Columbia

2. Objectives

- ☐ To ensure that commercial backcountry recreation is consistent with the concept of sustainable development.
- ☐ To ensure that natural resources such as wildlife, fish, habitat and aesthetics are not significantly impacted by the backcountry recreation industry.
- ☐ To manage commercial backcountry recreation in concert with, and with regard for, other Crown land and resource users in British Columbia.
- ☐ To maintain public access to Crown land and resources, and to ensure that public use of natural resources is not impaired by commercial recreational activity and development.
- ☐ To ensure that backcountry recreation industry development is responsive to the evolution of government policy on aboriginal land issues.
- ☐ To ensure that the commercial backcountry industry contributes to local economies to the maximum extent possible.
- ☐ To assist the development of quality commercial backcountry recreation products and services in order to maintain a healthy, responsive and competitive commercial backcountry industry.
- ☐ To define land rights appropriate for commercial backcountry recreation.
- ☐ To allocate and manage commercial rights to Crown land and resources fairly and consistently.
- ☐ To obtain fair rental for the use of Crown land and resources by commercial operators.

- ☐ To ensure that commercial backcountry recreation development is compatible with programs, plans and initiatives of all government agencies.
- ☐ To enhance coordination among government programs pertaining to the land, resource and business components of commercial backcountry recreation.
- ☐ To maintain flexibility in order to accommodate new commercial backcountry uses over time.

3. Proposed Direction

To achieve these objectives, the proposed direction is to build on existing policies, programs and responsibilities. All agencies with responsibilities for commercial backcountry recreation would continue to administer their respective programs. In this way, the emphasis would be placed on improved coordination and evolution of existing programs to better manage backcountry recreation land and resources.

Agencies with resource use responsibilities would continue to issue licences or permits for use of the resources necessary to a commercial backcountry operation. Agencies responsible for the land will continue to issue appropriate land use rights. Land use rights might include a Crown land lease for a lodge site, for example, or a Crown land licence for a cross-country ski trail system.

Responsibilities for the business dimensions of the industry, such as market research, preparation of regional marketing strategies, assistance in the preparation of business development plans, provision of financial assistance and issuance of business licences to the industry would remain with those agencies that have the particular authority and expertise.

Within this context, the Ministry of Crown Lands, when allocating Crown land rights for commercial backcountry recreation, will be responsive to and supportive of initiatives of other agencies. This will include: respecting the various policies and programs that exist; using available studies and information to assist the land allocation process; and ensuring agency consultation when making land allocation decisions.

4. Focus of the Discussion Paper

The focus of this paper is on the *land component* of commercial backcountry recreation. The following section presents specific issues and the policies proposed to address them.

A Crown Land Policy Strategy for Commercial Backcountry Recreation

In developing a Crown Land Policy Strategy for commercial backcountry recreation in British Columbia, within the broad direction identified in the previous section, a number of difficult policy issues need to be addressed. This section identifies specific land use issues and proposes policies for addressing them.

1. Planning, Inventory and Carrying Capacity: The Foundations For Sustainable Commercial Backcountry Recreation

Managing public land and resources for sustainable economic development is a key government objective. In terms of commercial backcountry recreation, this translates into: using resources within their ecological limits; preventing overcrowding that diminishes the recreational experience of the user or the business viability of the operator; and preventing incompatible resource use.

To address these needs requires: an inventory of the quality and quantity of land and natural resources that are important for recreational use; information on the carrying capacity of the land and resources to sustain use; and planning and zoning of the land base.

Current efforts to address these needs are underway in various government agencies. For example, the Ministry of Parks undertakes detailed resource inventories, assessments and planning to identify areas important for consideration as parkland, and to allocate and manage land in designated provincial parks for recreation use. The Ministry of Forests, through its integrated resource management planning program and the forest recreation program, compiles recreation land and resource inventories that assist in making decisions on use of the backcountry. In addition, the Ministry of Crown Lands has initiated several studies to identify areas of Crown land that are suitable for specific types of commercial backcountry recreation use and that have minimal conflict with other resource users.

While these initiatives provide information essential to making decisions on whether or not to approve commercial backcountry recreation proposals, the data is far from complete.

There are two possible courses of action available to government in order to deal with a lack of comprehensive information. As one option, government can choose to not approve commercial backcountry recreation proposals until a land use plan is in place for the Crown lands in question. Alternatively, in the absence of a land use plan to guide dicision-making, the government can carefully consider each proposal on its own merits. This process would involve inter-agency and public consultation, and the assembly of information on the specific implications of individual proposals.

The latter approach is proposed for two reasons. First, there are numerous proposals before government to create new backcountry recreation businesses, or to expand existing businesses. These proposals will create jobs and economic benefits for British Columbia, particularly in the outlying regions where these investments are most needed. To hold these proposals in abeyance indefinitely while inventories, assessments and plans are developed, will cost jobs and economic opportunities.

Secondly, the policies in this Discussion Paper can provide for the effective review and evaluation of each commercial backcountry proposal on its own merits. Only proposals considered to be consistent with the principles of sustainable development will be considered for approval. Proposals that are inconsistent with these principles, or where there are serious questions regarding their sustainability, will not be approved.

Proposed Policy:

The various provincial agencies responsible for undertaking inventories, assessments and plans for recreation use on Crown land will continue their programs. This information will guide government decisions on whether or not to approve proposals for commercial backcountry recreation use. In particular:

- ☐ **The Ministry of Forests will continue to undertake integrated resource management plans and wilderness designation and management plans and will incorporate resource inventories and designations for backcountry recreation use as part of these processes.**
- ☐ **The Ministry of Tourism will inventory and map recreation resources in the province, and will compile information on the economic benefits of backcountry tourism in British Columbia.**
- ☐ **The Ministry of Parks will continue to undertake resource inventories, assessments and plans to identify potential park and recreation areas in B.C. Commercial recreation use will be considered in the management planning exercises for these areas.**
- ☐ **The Ministry of Environment will continue to inventory and manage environmental resources under established fish and wildlife programs, and define limits and restrictions to environmental resource use consistent with the environmental carrying capacity. The Ministry of Environment will also continue to ensure operational safety of river rafting operations through a licensing and monitoring program.**
- ☐ **The Ministry of Crown Lands will continue to undertake studies to identify opportunities for commercial backcountry recreation use that will minimize conflict with other resource users and the natural environment.**
- ☐ **The Ministry of Crown Lands will continue to develop automated mapping systems, useful for storing and analyzing information pertaining to recreation inventories and carrying capacity.**

Proposed Policy:

Proposals for commercial backcountry recreation will be dealt with in the following manner:

- ☐ **Proposals will be subject to an inter-agency review process and public consultation.**
- ☐ **Proposals will be evaluated using available information from plans and studies.**
- ☐ **Proposals not consistent with land or resource use plans will not be approved.**
- ☐ **Where land or resource use plans are not available to guide decision-making, each proposal will be evaluated on its own merits regarding the environmental carrying capacity and social carrying capacity.**
- ☐ **The onus will be on the proponent to identify and overcome impacts on social and environmental carrying capacity.**
- ☐ **Where negative impacts of a proposal cannot be satisfactorily overcome, the proposal will not be approved by government.**

2. Public Access to Crown Land

British Columbia residents have a strong tradition of unencumbered access to Crown land for many individual outdoor recreational activities such as fishing, hunting, skiing, hiking and climbing. As well, specific areas of the backcountry have historically been used by organized groups and clubs on a regular and frequent basis. Examples include: sites frequented by snowmobile clubs; trail systems developed by local cross-country ski clubs; or rock faces used by mountaineering clubs.

Often the characteristics and qualities that have attracted traditional public or non-profit club use, will also be seen by a potential commercial proponent as a preferred opportunity relative to other sites. In these situations, either one or the other user groups must be given priority, or the two uses must be effectively blended.

In view of the stated objective to maintain public recreational access to Crown land in British Columbia, the central issue is whether or not all areas should be available at all times to accommodate public use, or whether there should be some areas or instances where public access is limited in support of commercial ventures.

Proposed Policy:

Traditional public use of the backcountry will be a prime consideration when evaluating proposals for commercial businesses.

Commercial backcountry recreation business proposals will be evaluated in terms of the magnitude and type of existing public use of the area. Proposals will be advertised publicly so that all appropriate organizations and interests may have the opportunity to comment on the commercial proposal. If the proposal is free of conflict with public use, or if conflicts with public use can be solved by appropriate management guidelines, then, subject to other requirements, the proposal may proceed. Otherwise the proposal

would be disallowed and government will work with the proponent to attempt to locate a more suitable area.

Proposed Policy:

Maintaining future public use or access options will be a consideration when evaluating commercial proposals.

Some areas of the province may not have a history of significant public recreation use but, nevertheless may, because of the unique or special attributes of the area, offer significant opportunities for public access or use in the future.

Where a review of a proposal for commercial backcountry recreation reveals that a significant future public use or access opportunity may be foregone if the commercial proposal were to proceed, the proposal may not be approved, or special requirements may be included in the management plan.

Proposed Policy:

Public use will generally be allowed in all areas used by a commercial backcountry operation, except on site-specific, approved facilities that the commercial operator has constructed and maintains.

Commercial backcountry recreation businesses will have to accommodate public access. The exception would be that the public can be excluded by operators to authorized physical improvements that have been built by the operator (eg. lodges, campsites, and possibly trails).

3. Aboriginal Land Issues

The 1990's have signalled major changes in societal attitudes toward aboriginal land questions. Federal and provincial policies are quickly evolving to reflect these new attitudes.

Proposed Policy:

The Ministry of Crown Lands will ensure that commercial backcountry recreation policies are responsive to, and consistent with, evolving government policies pertaining to aboriginal land issues.

Proposed Policy:

In the interim, commercial backcountry recreation proponents will be required to confer with appropriate Native groups prior to any decision by the Ministry of Crown Lands to grant Crown land rights for commercial backcountry recreation.

4. Allocating Commercial Land Rights

A. "First-Come, First-Served" vs. Competitive Process

Commercial rights to the use of Crown land have been allocated on both a "first-come, first-served basis" and through competitive processes. There is no single policy for the province. More recently, there has been an increasing trend toward use of a competitive process for allocating a wide range of commercial and industrial rights to the use of Crown land. The central issue here is which is the more appropriate process for allocating commercial backcountry rights.

Different commercial proposals for the same land may vary in the environmental, social and economic benefits that can be generated for the residents of the province. A competitive process provides the opportunity to evaluate different proposals and select the proposal that would generate the greatest overall benefit.

In the absence of a land market, in the traditional sense, as a basis for establishing value for commercial recreation land rights, there is no way of determining the value of commercial rights without a competitive bidding or tendering process. Government could lose revenue if a competitive process to allocate the rights is not followed.

Prime land suitable for commercial backcountry recreation is a relatively scarce public resource. Consequently, commercial rights to Crown land, once acquired, become a valuable "commodity" that can be traded or sold, often for substantial economic gain to the tenure holder.

In addition to economic reasons, the competitive process ensures fair and consistent treatment and avoids preferential treatment among proponents.

Proposed Policy:

Rights to Crown land for backcountry recreation use will be allocated by competitive process.

Proposals for development of commercial backcountry recreation businesses will be broadly advertised in order to solicit interest from other potential investors. There will be a competitive process involving proposal calls or tenders to determine which party obtains the land use rights.

B. Existing Commercial Backcountry Recreation Operators

Most existing commercial backcountry operators have acquired rights to Crown land for a single commercial backcountry use. Examples include guide-outfitting rights or commercial heli-ski rights.
A common trend among many of these operators is to attempt to diversify their businesses towards four-season operations.
This provides a more stable year-round income flow and can improve the rate of return on large investments such as a lodge.

Accordingly, requests have been received from existing operators to obtain additional rights without a competitive process. In some cases, operators may have historically conducted the activity that they are seeking to legitimize, but which has not been officially approved. It has been argued that government has an obligation to grant additional rights that would enhance business viability, and to not grant rights that might jeopardize viability.

A government policy that provides established operators with a built-in advantage over new proponents would predictably lead to a relatively small number of large and diversified commercial backcountry businesses on Crown land. While on one hand this might enable government administrators to more easily manage backcountry resources, there would be negative impacts of such a policy, including inconsistency with principles of fairness and equity. Moreover, a policy of competitive allocation for additional rights will stimulate business efficiency and innovation which, in themselves, should assist in the development of a strong and internationally competitive industry.

Finally, in the absence of a traditional land market as a basis for establishing value for commercial recreation opportunities, there is no way of determining the value of additional rights without a competitive bidding or tendering process.

Note: *It is not proposed, however, that existing authorized operators, particularly guide-outfitters, freshwater angling guides and commercial mechanized ski-guiding operators, will be required to have any additional Crown land tenure beyond what they currently have, unless they diversify and require a land tenure for the additional commercial use.*

Proposed Policy:

Requests from existing operators for additional commercial Crown land backcountry rights will only be granted following a competitive process. Crown land rights will not be granted automatically to existing operators who wish to diversify their operations.

This approach is fair and equitable for both the existing operator and potential new investors. While in most instances an existing operator will have a competitive edge as the basic commercial infrastructure will already be in place, a competitive process ensures a fair and equitable allocation process.

C. More Than One Activity

Applications for commercial backcountry use have generally focussed on a single activity such as guide-outfitting or commercial heli-skiing. Recently, proposals have been made to government to authorize rights to several if not all commercial backcountry opportunities in a specified area.

There are pros and cons to allocating multiple rights to any single operator at one time.

Administrative benefits include efficiencies in reviewing and approving applications for several activities at once rather than one at a time. From an operator's perspective, the guarantee that an operation can provide a wide range of activities to clients from the outset enhances business viability.

Balancing these benefits is the risk of establishing a commercial backcountry monopoly and concentration of ownership in a particular area that could effectively preclude other commercial operators and healthy competition. There is also the risk that some rights, once acquired, may be underutilized by the successful applicant or, alternatively, sold to generate windfall profits.

Proposed Policy:

In most instances, Crown land rights to each commercial backcountry recreation activity will require a separate application. Applications for multiple rights for a major four season development may be considered where it is in the public interest.

Rights to commercial backcountry recreation will normally require a separate application for each activity. Over time a proponent may acquire rights to several activities providing each is acquired separately. This would minimize the creation of "instant" monopolies and would enhance the competitive climate within the industry. This "go-slow" approach has the added benefit of providing government and residents with opportunities to gain experience in managing this new industry.

Proposed Policy:

Where major commercial backcountry recreation proposals involving multiple rights are considered, rigorous proposal evaluation will occur including: a multi-agency review panel; extensive public review; and performance bonding.

In those special circumstances where the benefits of a four season development would be particularly significant, it may be appropriate to allocate multiple rights to a single operator. In such instances, however, particularly rigorous management of the proposal would be required to ensure the public interest is effectively served. This would include: a multi-agency panel to evaluate proposals; extensive public review; and strong assurances through such means as performance bonding that the development of activities would occur as specified in a detailed development plan.

D. Priority of Canadian Residents?

Government can choose to give preference to Canadian residents when allocating new commercial rights. Alternatively, government can advertise commercial opportunities on an international basis in addition to advertising locally.

Giving preference to Canadian residents may encourage local employment and re-investment of profits in local economies. However, it is inconsistent with a truly competitive process and could reduce exposure to a wide range of international investors. As well, sources of international capital of a sufficient scale to enable large developments may be precluded.

Proposed Policy:

Commercial backcountry recreation opportunities will be offered on a local, national and international basis, as appropriate.

The proposal with the greatest social and economic benefits, including benefits to local economies, and with the least environmental impacts, will be successful regardless of the country of origin. However, all corporations must be registered in Canada.

E. Maximizing Local Benefits

To undertake a competition for allocating commercial rights to backcountry land, criteria are needed against which to evaluate the merits of competing proposals.

The highest dollar bid is the simplest way to select among competing alternatives. Commercial operations, however, generate many additional benefits including employment, tax revenues, contributions to regional diversification, or an ability to enhance public access to outdoor recreation opportunities.

In addition to benefits, the impacts of a commercial proposal can vary. Impacts on public access, local services or environmental quality must also be evaluated.

To maximize the total range of benefits when allocating commercial rights, competing proposals should be evaluated against criteria that measure and compare the total range of economic, social and environmental benefits and impacts of competing alternatives. In particular, proposals that emphasize local social and economic benefits and which do not result in environmental or resource degredation, will be given strong consideration.

Proposed Policy:

Competing proposals in the competitive tendering process for commercial backcountry recreation rights will be evaluated against economic, social and environmental criteria. A panel of experts may be established to evaluate proposals.

5. Pricing Commercial Backcountry Recreation Land Rights

A. Acquisition and Annual Rental

It is the policy of government to ensure a fair return to the Crown for use of public land.

To establish fairness and equity in determining appropriate value or rental, government subscribes to market value pricing. This approach works well where there is sufficient land market data to form a basis for setting land values and rents. The goal is to establish rents that are fair to both the tenure holder and government.

In the case of commercial backcountry recreation, where there is no "market" in the conventional sense for commercial rights to outdoor recreation opportunities, government cannot rely on comparable sales data to set values or establish rents.

Therefore, alternative means for establishing value must often be relied on. Available methods include: a competitive bid which, among other things, identifies the lump sum amount that a proponent is willing to pay as a "bonus bid" to obtain the initial commercial rights to Crown land; and the percentage of annual gross revenues offered as the basis for establishing fees or rentals for rights once acquired.

Percentage of gross revenues is currently used as the basis for calculating Crown land rental for downhill skiing and helicopter skiing. It is generally a fair system since it is tied to the use of the land and is responsive to changing market conditions from year to year. As well, it reflects the desirability or quality of recreational land being used. (i.e. Higher quality land will likely have greater participation and hence higher rents would be paid. Lower rents would normally occur where land is of lower quality resulting in lower participation rates).

Proposed Policy:

A competitive bid process will be used to establish willingness to pay for commercial backcountry recreation rights.
This will include:

- ☐ **A lump sum bonus bid; and,**
- ☐ **Percentage of gross revenues offered as the basis for calculating annual rental for use of the land.**

B. Transfer of Rights

Because prime land suitable for commercial backcountry recreation is a scarce public resource, commercial rights can become a valuable commodity that can often be sold by a tenure holder for substantial economic gain in excess of capital investment and the value of the business "goodwill".

It is long-standing Ministry of Crown Lands policy that Ministry approval must be received prior to the transfer of Crown land use rights to a third party.

Consequently, in addition to pricing the acquisition and use of commercial backcountry recreation land use rights, Ministry approval of a request to transfer the land may be conditional upon the Crown receiving a share in the financial benefits that result from the transfer.

Proposed Policy:

Approval of the Minister of Crown Lands is required prior to the transfer of commercial backcountry recreation land use rights.

Proposed Policy:

The Ministry of Crown Lands may require that the Crown share in financial benefits from the transfer of commercial backcountry recreation land use rights where a transfer would result in a significant financial transaction.

6. Nature of Rights

Generally, the rights required by a commercial backcountry recreation operation fall into three broad categories. These are: resource use rights; land use rights; and business licences. Resource use rights are rights to resources on the land such as fish or wildlife resources. Land use rights are rights of access to, or rights which establish an interest in land itself. A business licence simply provides the right to conduct the commercial operation. Depending on the commercial backcountry recreation operation, one or more types of rights may be required. In some instances, all types of rights may be necessary. There is a need to clearly identify the rights to be granted to an operator and, ensure that these rights are granted by the agency with expertise in evaluating, and responsibility for, the rights being allocated.

Proposed Policy:

Proponents may be required to obtain several "types of rights" from the government in order to conduct their business. Depending on the proposals, operators may require:

- ☐ **resource rights (eg. rights to harvest fish and wildlife);**
- ☐ **Crown land rights (i.e. rights to enter onto and occupy Crown land); and**
- ☐ **business licence (i.e. a licence to conduct a particular type of business activity).**

Note: *Business licencing rights are currently not widely used for commercial backcountry recreation in British Columbia. River rafting is an exception. Another area where this concept might be applied, is to tidal sport fishing related businesses, particularly resort and charter operations.*

Resource use rights provide the authority to operate a commercial backcountry business that uses a particular resource such as fish or wildlife. These rights would continue to be authorized and managed, including collection of user fees, by the agency responsible for the specific resource that is licensed (eg. Ministry of Environment).

Land use rights would give authority to use Crown land necessary to a commercial operation. These rights would be allocated and managed, including collection of rent, by the agency responsible for administering Crown land (eg. Ministry of Crown Lands).

Normally, resource use rights and land use rights would be conditional upon the development of a resource use or land use management plan.

Proposed Policy:

Government will tailor land use rights to the specific needs of each operation.

Government has the flexibility to issue a variety of land rights (i.e. tenures) to fit the various Crown land needs and circumstances of commercial operators. Each form of Crown land tenure conveys different sets of rights to the use of Crown land.

Crown land tenuring options include: sale; lease; licence and permit. *These are summarized in Table 1.*

If Crown land is sold, the commercial operator can exclude public and other operators from accessing the land, and can control the use and management of the land.

If Crown land is leased, the public and other operators can also be excluded from accessing the land for the period of the lease. Where rights are authorized by licence or permit, the operator only has a right to operate on the land. Public access can be maintained and additional licences or permits can be issued to other commercial operators in the same area.

The challenge is to accurately match tenure type(s) with the particular needs of a commercial backcountry recreation operation, and yet ensure that the broader public interest and the interests of other operators and other resource users are accommodated.

Proposed Policy:

Crown land may be sold or leased for commercial backcountry use only where the site is small, and where there is intensive use of the site combined with significant investment in physical improvements on the site. Sale, however, will only be considered in special circumstances.

Subsequent renewal of a lease would be subject to a satisfactory review of past performance of the operator.

Proposed Policy:

Rights to Crown land may be authorized by a licence where there is a need for tenure security due to physical improvements on the land for a strategic site or trail system (e.g. remote cabin site or cross country ski trail system).

Proposed Policy:

Rights for use of Crown land for extensive commercial backcountry purposes may be authorized by licence or permit and would not normally convey exclusive rights to conduct the business.

Extensive use refers to uses that are free-ranging, normally follow no regular or defined routes or patterns, and require no development or modification of the natural landscape (e.g. ski touring). Only in rare circumstances, where the nature of the operation warrants, will exclusive use for a specific activity be granted.

A licence or permit for an extensive use would only authorize use of Crown land for a specified commercial use. It would not give exclusive rights to use the land or resources on the land, nor would it permit excluding public access. In addition, government would normally be free to licence or authorize by permit other commercial backcountry operators in the same area including operators engaging in the same type of use.

Proposed Policy:

To accommodate unforeseen land use conflicts or public need, the Crown will retain the right to modify commercial backcountry recreation licences or permits without compensation.

The land areas involved in certain licences or permits can be very extensive. It is possible that the need may arise to modify such tenures in order to accommodate a public need in the form of a highway, hydro-electric reservoir, park or wilderness area, etc. Or, an unforeseen conflict among users may result from the establishment of the licence or permit. Where these situations arise, flexibility may be required to modify licence or permit rights. It is suggested that compensation from government to these tenure holders should not be required.

7. Resource Management and Conflict Resolution

A. Avoiding Negative Environmental and Social Impacts

Commercial recreation use of the backcountry will have some degree of impact on both natural and social environments. The kind of impacts and their magnitude will vary depending on the nature of the commercial use.

Potential impacts range from a loss of wildlife habitat, to overcrowding by recreationists resulting in a reduced quality of recreational experience.

Evaluating potential impacts of a commercial proposal depends on good information. In some instances adequate information will be available to evaluate a proposal. In other cases, information will be insufficient or unavailable to judge the merits of a proposed development.

Where the potential social and environmental impacts appear high and there is limited information to fully evaluate the potential impacts, the proponent may be required to undertake impact assessment studies.

Proposed Policy:

Commercial backcountry recreation proposals will not be approved where the potential environmental or social impacts are considered to be high or where there is insufficient information on impacts to evaluate proposals.

Proposed Policy:

Where data regarding potential social and environmental impacts is insufficient for resource managers to assess the merits of a proposed development, the proponent may be required to undertake an impact assessment, at the proponent's cost, to fully assess potential impacts and the ways that they might be overcome.

The information assembled by the proponents may then be used to decide whether or not the proposal should proceed, or if the proposal should be modified in some way. The information might also be incorporated into the specific management plan established for that operation.

B. Management Plans

Increasing demands for use of Crown land and resources make it necessary that they be used efficiently and diligently. There is also a need to ensure that commercial use of Crown land occurs in a way that minimizes impacts on the environment, other resource users, the public, and other commercial recreation operators.

Management plans that are custom-designed for each operation can help ensure that:

- ☐ impacts on other resource users and the environment are minimized;
- ☐ public access is not unnecessarily decreased and, ideally, is enhanced;
- ☐ impacts on existing commercial operators are minimized; and
- ☐ impacts among incompatible backcountry uses are minimized.

Once finalized, management plans provide the basis for monitoring performance of an operation and for resolving future conflict. The content of a management plan would include a description of the specific location, nature and intensity of the use permitted, and management prescriptions, as well as provide the basis for resolution of conflict with other resource users.

Proposed Policy:

Commercial backcountry recreation uses of Crown land will be conditional on acceptance and approval of a management plan.

Proposed Policy:

For major developments, the proponent will be responsible for preparing the management plan in conjunction with the public and government agencies.

Proposed Policy:

Management plans will provide the basis for monitoring and reviewing operator performance in using Crown land efficiently and properly. The carrying capacity of the land will be an important component of the tenure review process.

Management plans will constitute an integral part of the Crown land tenure agreement. In monitoring these tenures, the Ministry of Crown Lands will ensure that the conditions of the management plan are fulfilled. Where an operator under-utilizes the land, or where significant problems, resource conflicts or environmental degradation occurs, the Ministry may modify or cancel the Crown land tenure.

8. Public Safety

Many if not all commercial backcountry recreation activities involve some degree of risk to personal safety. In fact, it is the element of risk that enhances the appeal of many backcountry recreation activities.

To ensure public safety to the maximum extent possible throughout the industry, government looks to industry associations. These associations will be encouraged to self-regulate through development of standards for operator conduct that foster a safe industry.

Proposed Policy:

The commercial backcountry recreation industry will be encouraged, through its individual associations, to develop standards and regulations deemed necessary to ensure client safety and well-being.

Next Steps

The release of this public discussion paper is the first stage in the process to develop a commercial backcountry recreation land use policy.

Compile and Review Comments

Comments received from individuals, groups and organizations will be compiled and reviewed to determine needed changes to the policy proposals.

Consult with Provincial Level Public Organizations and Industry Associations

Meetings may be held with the executive of provincial level organizations representing the public and the industry to resolve any outstanding concerns.

Prepare Detailed Policy

The broad policy proposals contained in the public discussion paper will be translated into a more detailed statement of Ministry policy and procedures for authorizing commercial backcountry recreation use of Crown land.

Implement the Policy

Once reviewed and confirmed, the detailed policies and procedures will be implemented, and all commercial backcountry recreation proposals on Crown land will be evaluated and authorized according to the policies and procedures.

Monitor How Well We are Doing

To determine how successful the policies and procedures are working, the Ministry will monitor events to determine whether any changes are necessary.

Table 1

Summary of Proposed Crown Land Tenure Types For Commercial Backcountry Recreation

	TENURE TYPE			
LAND NEED	SALE	LEASE	LICENCE	PERMIT
Intensive Use Sites With Significant Physical Improvements	Yes (Rarely)	Yes	Yes	No
Linear Use Trails With Physical Improvements	No	No	Yes	Yes
Strategic Use Sites With Physical Improvements	No	No	Yes	No
Extensive Use Access To Land Only With No Improvements	No	No	Yes (Rarely)	Yes